

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Petition of the Embarq Local Operating)	
Companies for Forbearance)	
Pursuant to 47 U.S.C. § 160(c))	WC Docket No. 07-204
From Enforcement of Certain ARMIS)	
Reporting Requirements)	
)	
 In the Matter of)	
)	
Petition of Verizon for Forbearance)	
Under 47 USC § 160(c) From)	
From Enforcement of Certain ARMIS)	WC Docket No. 07-273
Reporting Requirements)	
)	

**THE REPLY TO COMMENTS OF
THE PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Commission

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Introduction

The Pennsylvania Public Utility Commission (PaPUC) appreciates this opportunity to file a Reply To Comments (Reply Comments) with the Federal Communications Commission (FCC). These are filed in response to the FCC Notice on the Petition of Embarq Local Operating Companies (Embarq) at WC Docket No. 07-204 filed on October 19, 2007 and the Petition of Verizon for Forbearance from certain reporting requirements at WC 07-273.

Both Embarq and Verizon seek forbearance from ARMIS Reporting Requirements (the Forbearance Petitions). The Embarq Petitions seeks forbearance from 43-05 (Service Quality) and 43-08 (Plant) requirements of the FCC.

Verizon seeks forbearance from ARMIS Financial Reports (Reports 43-01 through 43-04 and 495A and 495); ARMIS Service Quality Reports (Reports 43-05 and 43-06), ARMIS Infrastructure Reports (Reports 43-07 and 43-08). Verizon further seeks forbearance from Affiliate Transaction Rules 64.902 through 64.904. In addition, Verizon seeks forbearance from the requirement to apportion regulated interstate costs between various interexchange and access elements (47 CFF Part 63, Subparts D and E) as

well as Part 65, Subpart E and Report 492A. Finally, Verizon seeks forbearance from the Continuing Property Rules in Part 32 that prescribe record keeping requirements for investment in property, plant, and equipment and for maintaining supporting records.¹

The FCC published notice of the Embarq Petition at DA 07-5033. That notice established a Comment and Reply Comment period of February 1, 2008 and March 17, 2008, respectively. The FCC published notice of the Verizon Petition at DA 07-5034 on the same date. That notice also set the Comment and Reply Comment period for February 1, 2008 and March 17, 2008, respectively.

By way of background, the PaPUC entered a Final Rulemaking Order on August 21, 2006 at Docket No. L-00050176 (the Reporting Requirements Rulemaking) addressing the reporting obligations of telecommunications public utilities based on Pennsylvania's new Chapter 30 legislation at 66 Pa.C.S. § 3011-3019 (Chapter 30). The Chapter 30 law enacted an alternative form of regulation for local exchange telecommunications carriers

¹ Verizon Forbearance Petition, Docket No. 07-273, filed November 26, 2007, pages 11-12 (ARMIS), 19 and 25 (Affiliate Transactions), 30 (Regulated Interstate Cost Apportionment), 33 (Continuing Property Records).

and seeks to advance the deployment of an advanced broadband network throughout urban and rural Pennsylvania.

The Reporting Requirements Rulemaking significantly revised the reporting obligations imposed on telecommunications public utilities in Pennsylvania. The PaPUC eliminated financial (earnings) reports, the annual depreciation report, the capital plan report, service life study report, the quarterly cramming reports, the quarterly slamming reports, and the accident reports.² The PaPUC also reset the interest rate for customer deposits as set forth in the Chapter 14, 66 Pa.C.S. § 1404(c)(8), to require the filing of residential account information on an annual basis rather than on a quarterly basis as previously prescribed in 52 Pa.Code § 64.201(b) of the PaPUC's Regulations.³ Finally, the PaPUC made a ministerial change to

² *Rulemaking re: PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. L-00050176 (Final Rulemaking Order entered August 21, 2006), p. 6.

³ *Rulemaking re: PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. L-00050176 (Final Rulemaking Order entered August 21, 2006), p. 6; *Section 3015(f) Review Regarding The Lifeline Tracking Report, Accident Report and Service Outage Report*, Docket No. M-00051900 (Final Order entered December 30, 2005), Ordering Paragraph Nos. 3 & 4, p. 23.

Section 64.22(1) of the PaPUC's Rules. This ensures that LECs are not responsible for settling IXC-related complaints.⁴

As an initial matter, the PaPUC Reply Comments should not be construed as binding on the PaPUC or any individual Commissioner in any proceeding pending before the PaPUC. These recommendations made in the Reply Comments could change in response to subsequent events including subsequent state or federal developments.

⁴ *Rulemaking re: PUC Filing and Reporting Requirements on Local Exchange Carriers*, Docket No. L-00050176 (Final Rulemaking Order entered August 21, 2006), p. 7.

The PaPUC Reply Comments

The PaPUC is concerned about these Forbearance Petitions. Several considerations support this concern based on a review of the filed Comments. These include the absence of alternative information sources, the state commissions' reliance on this information, and the potential that forbearance could preempt state law or prevent a state from imposing obligations under independent state laws.

The ARMIS Reporting Requirements. The Forbearance Petitions of Embarq and Verizon mirror other pending forbearance petitions addressing ARMIS Reporting Requirements.⁵ The Forbearance Petitions seek relief from reporting and recordkeeping requirements but Verizon also asks the FCC to preempt state reporting requirements.⁶

The PaPUC agrees with the Comments claiming that elimination of the ARMIS Reporting Requirements effectively extinguishes a public source of information that provides a valuable tool to state and federal regulators,

⁵ Joint Comments and Opposition of the New Jersey Division of Rate Counsel and the National Association of State Utility Consumer Advocates, Docket Nos. 07-204 and 07-273 (the "Consumer Advocates' Comments").

⁶ Consumer Advocates Comments, p. 5; Verizon Petition, p. 5.

including benchmarking.⁷ The PaPUC also shares the concern that a petition-specific proceeding is not the forum for making broad determinations on the continuation of essential reports like ARMIS.⁸

The PaPUC reminds the FCC that the last time the FCC considered eliminating some reporting obligations the FCC ultimately retained many requirements. The FCC did that because it was more cost-effective to have a uniform and national reporting obligation compared to the piecemeal state-specific reports that could result if the FCC ended national reporting. The PaPUC also reminds the FCC that national reporting requirements are a very cost-effective way for smaller states with minimal utility regulatory commission staff to perform their tasks as state regulators because they can rely on this nationally available data.

The PaPUC also shares the concern of the Comments challenging the Verizon and Embarq claim that Service Quality (43-05), Plant and Technology (43-08) are no longer needed in a competitive environment.⁹ The Petitioners suggest that interested parties can obtain this information from

⁷ Comments of the Washington Utilities and Transportation Commission (WUTC), pp. 2-4; California Public Utility (CPUC) Comments (limited to Citizens), pp. 3-7.

⁸ CPUC Comments, pp. 7-8.

⁹ WUTC Comments, pp. 2-4.

other sources. Verizon goes so far as to request preemption from any state reporting requirement similar to those addressed by ARMIS.

The PaPUC's Reporting Requirements Rulemaking preserved an obligation to report on Lifeline Tracking and, importantly, Service Outage Reports. The PaPUC is very concerned that elimination of ARMIS or, worse, preemption could effectively preclude the PaPUC from getting service quality information. This is an important consideration. For that reason, the PaPUC supports the WUTC Comments and shares the Comptel concern about recent reports, specifically the *2008 Service Quality Report*, which indicate that service quality is not high and improving.¹⁰

In addition, the FCC-mandated ARMIS Service Quality data for Embarq and Verizon incumbent local exchange carriers (ILECs) operating in Pennsylvania provide valuable statistics that are readily and publicly available. These statistics cannot be obtained elsewhere and provide a crucial source of non-proprietary information for monitoring the overall levels of quality of service provided within Pennsylvania.

¹⁰ Comptel Comment, p. 3 citing *2008 Quality of Service Report (February 2008)*, p. 2.

The PaPUC and the MACRUC States have previously noted in comments in the pending Forbearance Notice of Proposed Rulemaking that Section 160(e) could be interpreted to effectively prevent a state from relying on independent state law to address matters that are the subject of FCC forbearance.¹¹ While the PaPUC supports the view of the New York Commission that this provision addresses federal law and not independent state law,¹² the PaPUC is also concerned that state law can also be voided by preemption independent of Section 160(e).

The PaPUC supports the Comments of Sprint/Nextel, the Consumer Advocates, and the WUTC which stress the importance of ARMIS and the fact that there really is no effective substitute for ARMIS information. In particular, the PaPUC shares the concern of the WUTC that state regulators have no readily-available cost-effective source for carrier information when trying to compare a company's operations in their states with operations of other companies or, importantly, a company's operations in multiple states.¹³

¹¹ *In the Matter of petition to Establish Procedural Requirements to Govern Proceedings for Forbearance Under Section 20 of the Communications Act of 1934, as Amended*, FCC Docket No. WC 07-267, Comments of the PaPUC; Comments of the MACRUC States.

¹² New York Department of Public Service Comments, p. 3.

¹³ WUTC Comments, pp. 2-3.

For example, the PaPUC notes that the Verizon ILECs (especially the ILEC subsidiaries of former Bell Atlantic) have ceased to file their own separate and unique financial Annual Form 10-K Reports with the U.S. Securities and Exchange Commission (SEC) for a number of years. Instead, all of the Verizon ILEC financial data are now subsumed in the Form 10-K Annual Report that is submitted by the parent Verizon Communications Corporation.

The PaPUC also supports Comments which encourage the FCC to outright reject the petitions because they do not meet the three-pronged test set out at 47 U.S.C.A. §160(a).¹⁴ In addition, the PaPUC also supports the Comments which suggest that, if necessary, the FCC should explore ARMIS reporting requirements in a broader proceeding. The PaPUC also shares the concern about the market impact, particularly as forbearance interfaces with special access, although this issue is better examined in the Special Access proceeding.¹⁵

The Common Carrier Complaint (Part 1), Uniform System of Account (Part 32), Affiliate Transaction (Part 43), Cost Allocation (Part 64), Interstate

¹⁴ Consumer Advocates Comments, pp. 14-36.

¹⁵ Comments of BT Americas, Inc., pp. 4-12.

Return (Part 65), Access Charges (Part 69) and Universal Service (Section 254k) Rules.

The PaPUC notes the breadth and extent of Verizon's Petition on these reporting requirements. These reports address a panoply of requirements like plant investment, separations of interstate and intrastate costs and revenues, and affiliate transactions.

The PaPUC notes that Pennsylvania eliminated many similar reporting requirements on net plant investment, financial reports, and other requirements. The PaPUC did this based on the Pennsylvania legislative goal of minimizing reporting requirements under the Chapter 30 law.

The PaPUC was fully aware of the fact that ARMIS Requirements for Embarq and Verizon were then in full force and effect. The PaPUC shares the concern of the Comments that there is no reason to eliminate these important non-jurisdictional sources of critical information when Pennsylvania's elimination of similar reports, in a vein similar to California, means that there is no viable alternative to getting that information. Like the CaPUC, the PaPUC relies on ARMIS data as a critical source of information for meeting the PaPUC's statutory obligations. For example, the

financial data that are submitted to the PaPUC by the regulated Embarq and Verizon ILECs operating in Pennsylvania are not jurisdictionalized (the data are submitted on a “total company” basis). Only the ARMIS data filed with the FCC still provide readily and publicly available non-proprietary information of regulated, non-regulated and intrastate versus interstate jurisdictional allocations of financial data for these ILECs. Verizon provides no valid reason to terminate these reporting requirements.¹⁶ The New York Public Service Department Comments presents a legitimate concern that Affiliate Transaction, Property Record and Rate-of-Return reporting rules are helpful in determining whether an ILEC is cross-subsidizing its unregulated activities with its regulated offerings to the detriment of consumers.¹⁷

Like other state Comments in this proceeding, the PaPUC has also referred to ARMIS information in the past in order to have a broader picture of the telecommunications industry operating in Pennsylvania and these carriers in particular. The PaPUC shares the concern of the other Comments that elimination of these reporting requirements will deprive state

¹⁶ Verizon Petition, Attachment 1, pp. 1-2.

¹⁷ New York Public Service Department Comments, p. 2.

commissions and the FCC of important information.¹⁸ In particular, it is worth noting that the information submitted here in ARMIS often becomes the basis for the information contained in other FCC reports as well.

The PaPUC thanks the FCC for providing the PaPUC with an opportunity to file these Reply Comments.

Respectfully submitted,
Pennsylvania Public Utility Commission

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¹⁸ WUTC Comments, pp. 2-3; California Public Utility Comments (limited to Citizens), pp. 3-6.